

# EXHIBIT C

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

THOMAS A. EAMES, on behalf of  
themselves and all others : CIVIL ACTION  
similarly situated; ROBERTA L. :  
EAMES, on behalf of themselves :  
and all others similarly :  
situated; TAMMY EAMES, on behalf :  
of themselves and all others :  
similarly situated; :

Plaintiffs, :

v :

NATIONWIDE MUTUAL INSURANCE :  
COMPANY, :

Defendant. :

NO. 04-1324 (KAJ)

Wilmington, Delaware

Tuesday, November 8, 2005 at 9:00 a.m.

ORAL ARGUMENT - MOTION TO DISMISS

BEFORE: HONORABLE KENT A. JORDAN, U.S.D.C.J.

APPEARANCES:

MURPHY, SPADARO & LANDON  
BY: JOHN S. SPADARO, ESQ., and  
PHILIP T. EDWARDS, ESQ.

Counsel for Plaintiffs

SWARTZ CAMPBELL, LLC  
BY: NICHOLAS E. SKILES, ESQ.

and

Brian P. Gaffigan  
Registered Merit Reporter

1 gravamen of the complaint or not?

2 MR. CHEYNEY: I would agree that that is the  
3 gravamen of the complaint. I'm not here to quibble over  
4 that. That is basically what they're saying. Although I  
5 don't think that that follows, but that is what they're  
6 saying.

7 THE COURT: Okay. Now, assume for our  
8 discussion that I feel that takes me to a place where, you  
9 know, I have to look then -- here is a better way to say it.  
10 Is there that a theory on which they could prevail?

11 MR. CHEYNEY: No, because it is not ambiguous.  
12 You have to first find the contract has an ambiguity. Even  
13 with the word "full," give it to them. It's full \$15,000.  
14 It's not fuller than \$15,000. It's not the fullest  
15 available. It's just full. And when it's looked at in the  
16 totality -- and let me read the quote for Your Honor because  
17 this comes from the McCastle vs. Hartford (phonetic) case, a  
18 federal case:

19 Because possible ambiguity lurks in every word,  
20 sentence and paragraph in the eyes of a skilled advocate,  
21 absent a showing that the word "full" in this case has  
22 acquired a special meaning, not a conjured up meaning, the  
23 question is not whether there could be an ambiguity in the  
24 metaphysical sense but whether the language in the contract  
25 has only one reasonable meaning when construed, not in a